

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TENNESSEE AT KNOXVILLE

Tennessee State Conference of the NAACP, et al,

Plaintiffs,

v.

Middle District No. 3: 19-cv-365

Tre Hargett, in his official capacity as
the Secretary Of State of the State of Tennessee,

Defendant

MOTION TO QUASH SUBPOENA

Comes now Andrea Smothers, Haywood County Administrator of Elections, by and through counsel and pursuant to F.R.Civ.P. Rule 45(d)(3)(A), and moves this Court to quash the attached subpoena from the Middle District of Tennessee on the following grounds:

1. The party serving the subpoena failed to take reasonable steps to avoid imposing undue burden and expense as required by Rules 45(d)(1) and (d)(3)(A)(iv);
2. the subpoena fails to allow a reasonable time to comply as required by Rule (d)(3)(A)(i); and
3. the subpoena fails to require the movant to comply within the geographical limits specified in Rule 45(c), as required by Rule (d)(3)(A)(ii).

MEMORANDUM IN SUPPORT OF MOTION

Plaintiff in this Middle District case served the attached subpoena duces tecum upon the Movant, Andrea Smothers, Haywood County Administrator of Elections, on December 19, 2019.

The subpoena contains four pages of instructions and definitions, and purports to require production of 35 categories of documents, consisting of nearly eight years of records which represent thousands of documents, many of which would require laborious redaction of personal identifiers such as social security numbers. Despite the massive scope of the request, no effort was made to avoid imposing undue burden and expense as required by Rules 45(d)(1) and (d)(3)(A)(iv).

The subpoena also purports to require the Movant to produce the documents in Nashville (or to scan and email the documents to an email address), which fails to comply with the geographical limits specified in Rule 45(c), as required by Rule (d)(3)(A)(ii).

The subpoena was served three business days before Christmas, with a compliance deadline of January 16, 2020. Movant was on vacation December 20, 24, 31 of 2019 and Movant is currently overextended preparing for the March primary election. Movant has begun recruiting and preparing training for part-time temporary election officials. Applications for absentee Ballots are arriving in the daily mail and Ballots must be mailed no later than January 18, 2020 to all military and overseas voters. Nursing home voting begins February 3, 2020. Voter registration for the primary ends February 3, 2020. Election office must be staffed with trained election officials for early voting, which begins February 12, 2020. Movant has zero full-time employees and will already be working overtime to complete the aforementioned tasks, which are required by federal and state law. Accordingly, the subpoena fails to allow a reasonable time to comply as required by Rule (d)(3)(A)(i).

If the Court does not quash the subpoena as a matter of course pursuant to Rule 45(a)(3)(A), Movant requests a hearing to determine reasonable modifications to the subpoena.

Respectfully submitted this ____ day of January, 2020.

BANKS LAW FIRM, P.A.

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular United States Mail, postage prepaid:

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